

**CALENDAR ITEM**

**C14**

A 1

04/20/17

PRC 8380.1

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K. Connor

**ACCEPTANCE OF A QUITCLAIM DEED AND  
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

**LESSEE:**

Susan Schlicht; Dudley Gustav Schlicht, as Trustee of the Dudley Gustav Schlicht Trust under the Second Amended and Restated Declaration of Trust dated May 15, 2008; and Duncan Hallberg Schlicht, as Trustee of the Duncan Hallberg Schlicht Trust under the Second Amended and Restated Declaration of Trust dated September 19, 2007

**APPLICANT:**

James Morrison

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 160 Sierra Terrace Road, near Tahoe City, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of two existing mooring buoys.

*LEASE TERM:*

10 years beginning April 20, 2017.

*CONSIDERATION:*

\$754 per year, with an annual Consumer Price Index adjustment.

*SPECIFIC LEASE PROVISIONS:*

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses.

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3. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoys.
4. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

**Public Trust and State's Best Interests Analysis:**

On May 24, 2012, the Commission authorized a General Lease – Recreational Use for two existing mooring buoys to Susan Schlicht; Dudley Gustav Schlicht, as Trustee of the Dudley Gustav Schlicht Trust under the Second Amended and Restated Declaration of Trust dated May 15, 2008; and Duncan Hallberg Schlicht, as Trustee of the Duncan Hallberg Schlicht Trust under the Second Amended and Restated Declaration of Trust dated September 19, 2007 ([Calendar Item C32, May 24, 2012](#)). That lease expires on March 31, 2022. On August 3, 2015, ownership of the upland parcel was transferred to James Morrison. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of two existing mooring buoys.

On March 21, 2016, the Lessee executed a quitclaim deed releasing their interest in the lease. Staff recommends acceptance of the quitclaim deed and issuance of a new lease. The Lessee paid annual rent through March 31, 2016. Therefore, staff recommends that the Commission accept compensation for the unauthorized occupation of State land in the amount of \$795 for the period beginning April 1, 2016, through April 19, 2017, the day before the new lease, if authorized by the Commission, becomes effective.

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The two buoys are privately owned and maintained. There is also a pier extending from the upland past the approximate shoreline, as shown on Exhibit B; however, the pier does not extend below the low water line and therefore is not within the Commission's leasing jurisdiction. Consequently, a lease for the pier is not required at this time.

The subject buoys facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

CALENDAR ITEM NO. **C14** (CONT'D)

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

CALENDAR ITEM NO. **C14** (CONT'D)

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

1. Authorize acceptance of a quitclaim deed, effective April 19, 2017, of Lease No. PRC 8380.1, a General Lease – Recreational Use, issued to Susan Schlicht; Dudley Gustav Schlicht, as Trustee of the Dudley Gustav Schlicht Trust under the Second Amended and Restated Declaration of Trust dated May 15, 2008; and Duncan Hallberg Schlicht, as Trustee of the Duncan Hallberg Schlicht Trust under the Second Amended and Restated Declaration of Trust dated September 19, 2007.
2. Authorize acceptance of compensation in the amount of \$795 for unauthorized occupation of State land for the period beginning April 1, 2016 through April 19, 2017.
3. Authorize issuance of a General Lease – Recreational Use to James Morrison, beginning April 20, 2017, for a term of 10 years, for the continued use and maintenance of two existing mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$754, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 8380.1**

**LAND DESCRIPTION**

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 5, Township 15 North, Range 17 East, MDM., County of Placer, State of California, and more particularly described as follows:

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that parcel as described in Exhibit "A" in that Grant Deed recorded August 3, 2015 as Document Number 2015-0067333 of Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared December 30, 2016 by the California State Lands Commission Boundary Unit.





APN 094-150-019

SHORELINE

APPROXIMATE

EXISTING  
PIER

240'±

6223'± LTD

LAKE

TAHOE

EXISTING  
BUOYS

60'±

# EXHIBIT A

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LAND DESCRIPTION PLAT  
PRC 8380.1, MORRISON  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE

APN 094-150-019

SHORELINE

APPROXIMATE

EXISTING  
PIER

240'±

6223'± LTD

EXISTING  
BUOYS

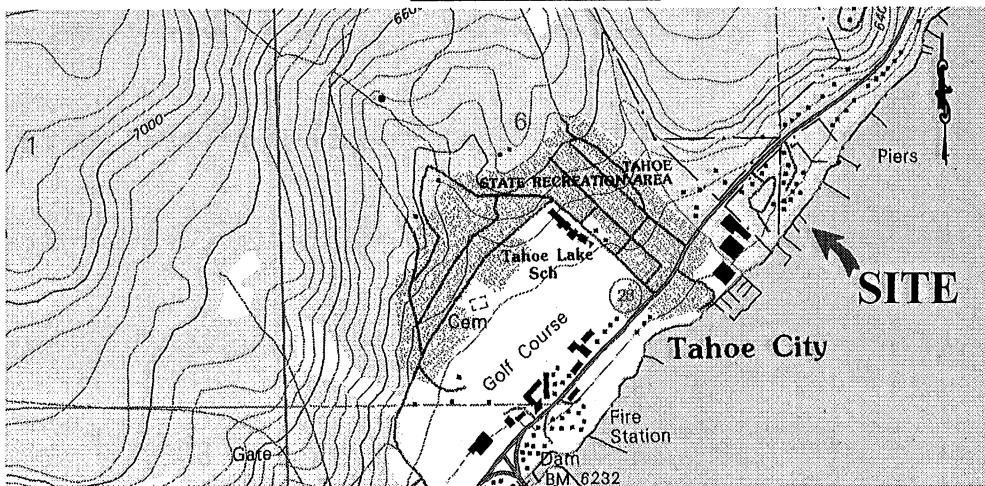
L A K E

T A H O E

160 SIERRA TERRACE ROAD, TAHOE CITY

NO SCALE

## LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

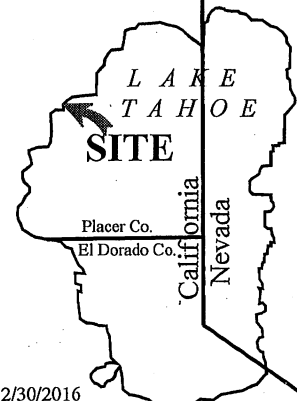
## **Exhibit B**

PRC 8380.1

MORRISON

APN 094-150-019

GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY



MJJ 12/30/2016